

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Cheteni et al.,
Plaintiff-Appellant,

vs.

UNITED STATES DEPARTMENT OF EDUCATION; MIGUEL CARDONA, in his official capacity as Secretary of Education;

Defendants-Appellees.
Appeal from the United States Secretary of Education

Case Number: 24-1353

**[PROPOSED] STIPULATED AGREEMENT AND ORDER
FOR PERMANENT INJUNCTION**

WHEREAS, the parties have agreed to resolve the matters set forth in the petition for judicial review without the Secretary admitting liability for any of the violations alleged therein;

WHEREAS, a decision has been made to vacate the May 20, 2023 Vella decision based on the stipulated agreement that the interpretation of the federal statutes by the Secretary deserves great deference under the American Rescue Plan Act and the General Education Provisions Act;

THEREFORE, the parties hereby agree to the following terms, which shall constitute the binding Stipulated Agreement and Order for Permanent Injunction:

1. **Final Judgment and Order:** This document shall serve as the Final Judgment and Order, binding upon the California Department of Education (CDE), The VR School, Dr. Freedom Cheteni, and all associated parties. This judgment resolves all claims related to the proceedings in this action.
2. **Vacatur of Decision:** The May 20, 2023 operative decision is vacated *ab initio*. All proceedings challenging the validity of the CDE's operative pleading are hereby barred.
3. **Permanent Injunction:** CDE and its agents are permanently enjoined from withholding payments to any and all vendors listed in the appellate and administrative record under the Emergency Assistance to Nonpublic Schools (EANS) program. The CDE must process all payments immediately via the designated payment agents or established processes.
4. **Notification and Settlement Procedures:** Within three days of the entry of this Final Judgment and Order, the appellant is responsible for notifying the CDE to submit all necessary documents and reports to facilitate the Secretary's review and to ensure compliance with this Order.
5. **Secretarial Review:** The Secretary will review CDE's April 17, 2023 operative pleading and issue a new decision to correct any jurisdictional defects within seven days of receiving the necessary documentation.
6. **Prohibition on Attorney's Fees:** This Order does not entitle any party to seek attorney's fees as a prevailing party under any provisions of federal law, including the Equal Access to Justice Act. The CDE Director, William McGee and Dr. Cheteni have stipulated the prevailing party in the appeal against the Vella Decision is entitled to reasonable fees and costs.
7. **Distribution of Order:** The petitioner is tasked with distributing this Order to all relevant principals, officers, directors, and managers of the CDE and ensuring that each recipient acknowledges receipt within 30 days.
8. **Civil Penalty:** A judgment in the amount of \$286,000 is entered against the CDE for costs on the Motion for More Definite Statement only, enforceable solely by the parties to this agreement.

- 9. Retention of Jurisdiction:** The Court retains jurisdiction over this matter for purposes of enforcing the terms of this Order.
- 10. Acknowledgment of Receipt:** CDE must submit a sworn statement to the U.S. Office of Administrative Law Judges acknowledging receipt of this Order within five business days of its entry.
- 11. No Appeal:** Both parties waive all rights to appeal or otherwise challenge the validity of this Order.
- 12. Effective Date:** The effective date of this Order shall be the date on which it is approved by, and becomes a Judgment/Order of the Court.

This Stipulated Agreement and Order is executed in counterparts, with digital signatures deemed as valid as original signatures.

IN WITNESS WHEREOF, the parties hereto have caused this Stipulated Agreement and Order for Permanent Injunction to be executed by their duly authorized representatives.

Dated: May 17th, 2024

U.S. Circuit Court Judge

On behalf of Petitioner in Stipulation

/s/ Freedom Cheteni, Petitioner

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Attorney Stipulating on behalf of the United State and Secretary Miguel Cardenas

Kevin Kennedy, Attorney

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